

REMARKS

This communication is filed in response to the Office Action dated March 25, 2011 (hereinafter "*Office Action*"). Claims 1-9, 11-21, 23-25, and 28 are amended. No claims are presently canceled. Claims 10, 22, 26, and 27 were previously canceled. Therefore, claims 1-9, 11-21, 23-25, and 28-32 remain pending in this application.

Claim Objections

The Examiner objected to claim 28 because "[c]laim 28 is dependent upon claim 26 which has been previously canceled." Applicants have amended claim 28 such that it depends on claim 18 instead of claim 28. Accordingly, Applicants respectfully request that the Examiner withdraws the objection to claim 28.¹

The Rejection of Claims Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-9, 11-21, 23-25, and 28-32 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0154239 to Davis (hereinafter "*Davis*") in view of U.S. Patent No. 6,081,807 to Story et al. (hereinafter "*Story*").²

As the Supreme Court stated in *KSR Int'l Co. v. Teleflex Inc.*,³ the factual inquiries announced in *Graham v. John Deere*⁴ (scope and content of the prior art; differences between the claimed invention and the prior art; level of ordinary skill in the art; and secondary indicia of non-obviousness), remain the foundation of any determination of obviousness.⁵ It remains true that "[t]he determination of obviousness is dependent on the facts of each case."⁶ Applicants

¹ *Office Action* at 2.

² *Office Action* at 3.

³ *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007).

⁴ *Graham v. John Deere*, 383 U.S. 1, 17-18 (1966).

⁵ See Examination Guidelines Update: Developments in the Obviousness Inquiry After *KSR v. Teleflex*, Federal Register / Vol. 75, No. 169 / Wednesday, September 1, 2010 / Notices, p. 53644 (hereinafter "2010 KSR Guidelines").

⁶ *Sanofi-Synthelabo v. Apotex, Inc.*, 550 F.3d 1075, 1089 (Fed. Cir. 2008) (citing *Graham*, 383 U.S. at 17-18 (1966)).

will show that, under the facts of this case, independent claims 1, 6, 14, and 18, and their respective dependent claims, are patentable over *Davis* in view of *Story*.

Each of independent claims 1, 6, 14, and 18, as amended, recites, in part, “a message server,” “a messaging service,” “means means for performing centralized inter instances communication,” or “a central services node” that is “configured to be restarted after a failure without performing state recovery operations.”

The Examiner conceded that *Davis* does not disclose a similar recitation, specifically, “a message server having no persistent state such that the message server can be restarted after a failure without performing state recovery operations.”⁷ Instead, in support of an allegation that *Story* “teaches a stateless server,” the Examiner cited to *Story* at col. 1, lines 27-35.

However, *Story* teaches away from this recitation. In particular, *Story* states that “there are problems associated with implementing a stateless file server” because “operating-system mechanisms to support [traditional file access]” are “stateful.”⁸ *Story* further states that “on many operating systems, to have to recreate this state information for each read or write operation adds significant system overhead and reduces system performance to an unacceptable degree.”⁹

Thus, *Story* discusses creating a “pseudo-open” state for a file “when a request for accessing the file is received.”¹⁰ To that end, *Story* states that if “there is no pseudo-open state established for the file, the pseudo-open state will be established [when the request is received].” Because *Story* expressly disparages the concept of a stateless server that does not establish a pseudo-open state corresponding to each server request, *Story* teaches away from an entity that is “configured to be restarted after a failure *without performing state recovery operations*,” as recited in each of independent claims 1, 6, 14, and 18 (emphasis added).

⁷ Office Action at 4.

⁸ *Story* at col. 50, lines 50-56.

⁹ *Id.* at col. 1, lines 56-59.

¹⁰ *Id.* at col. 2, lines 32-35.

Independent claim 1, as amended, recites, in part, “handling communications between [a] plurality of instances of the application server.” Additionally, each of independent claims 6, 14, and 18, as amended, recites, in part, a recitation that is similar or analogous to this recitation of independent claim 1.

In support of an allegation that *Davis* discloses this recitation, the Examiner cited to *Davis* at paragraphs [0014] and [0015].¹¹ In paragraph [0014], *Davis* discusses that “communications between the edge and the origin use conventional communication protocols such as RMI and SOAP.” However, using protocols for communications between the edge and the origin is not the same as “handling communications between a plurality of instances of the application server,” as recited in claim 1. For example, *Davis* does not disclose, in the cited portions or elsewhere, communication between a first edge serve and a second edge server (e.g., of instance-specific information).

Additionally, in paragraph [0015], *Davis* discussing “sandboxing” of “multiple application server instances,” in which “a given application cannot run or load code belonging to other applications, it cannot load data belonging to another application, it cannot read or write arbitrary files on the file system, and it cannot make native kernel calls or load libraries that make native calls.” However, such sandboxing is contrary to contrary “handling communications between [a] plurality of instances of the application server,” as recited in independent claim 1.

Furthermore, *Davis* is directed to “offload[ing] work from Web site origin servers by delivering content (e.g., Web objects, streaming media, HTML, and executable code) on their behalf to end users.”¹² Such offloading of work to edge servers does not teach or suggest communication (e.g., of instance-specific information) between the instances of application servers executing on the edge servers.

¹¹ *Office Action* at 3-4.

¹² *Davis* at [0005].

Each of independent claims 1, 6, 14, and 18, recites, in part,

registering or reregistering instance-specific information with the central services node upon a starting or a restarting, respectively, of the central services node, the instance-specific information identifying one or more services that the one or more of the plurality of application server instances is configured to provide to each of the plurality of application server instances.

Neither *Davis* nor *Story* discloses this recitation. In fact, as described above, *Davis* is directed to offloading work from Web site origin servers and *Story* is directed to a stateless file server, neither of which pertains to registering instance-specific information identifying one or more services to be provided to each of a plurality of application server instances.

Because no combination of *Davis* and *Story* teaches or suggests at least the above recitations of each of independent claims 1, 6, 14 and 18, independent claims 1, 6, 14, and 18, and their respective dependent claims, are patentable over *Davis* in view of *Story*. Additionally, each of the claims depending from independent claims 1, 6, 14, and 18 may be patentable for its own reasons. Accordingly, Applicants respectfully request that the Examiner withdraws the rejection of claims 1-9, 11-21, 23-25, and 28-32 under 35 U.S.C. § 103(a).

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned representative at (408) 660-2016 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(408) 660-2016

Date 06/15/2011

By Kirt L. Iverson
Kirt L. Iverson
Reg. No. 62,660